khanates. The shariat, that is, the Koran, tradition and the decisions of the first caliphs together with their commentaries and a large number of cases of precedence, are laid down in an endless number of books, and these are considered the basis for all administration of justice. Therefore only men who have made the study of these books their life's work, can be judges, that is, the mullahs; and thus they play the roles of theologian and jurist simultaneously. In the Moslem states of Central Asia, there are for all matters of law two courts of law, the kazi (the same as the kadi among the Turks) and the beg or khan. The kazis judge all civil law matters of dispute, and can also decide all lesser offenses. At the same time they also function as notaries and registrars of births, marriages and deaths, so that to them falls the preparation of deeds of purchase and sale, of the contraction of loans, of marriages and divorces and the like. The kazis are appointed for life by the beg or khan himself, after they have passed an exhaustive examination on the shariat. The number of kazis is unlimited, and no particular district is assigned to any. Everyone turns with his request to the kazi in whom he has the greatest confidence. There are no special chambers of justice. Every kazi practices his profession in his dwelling, also in the market and in the gateway halls. The kazis have only one scribe (mirza) to assist them from whom no further knowledge is required than that he have good handwriting. All the pleading is done 'viva voce'. The decisions, however, are entered in a special book by the mirza, and then confirmed by the kazi by the affixing of his seal. Among the Central Asians it is not the custom at all to sign a document or even a letter, an act of which only a few are capable; instead they always affix their seal in poster colors, in place of a signature. The kazis do not receive a regular salary; their income is made up of the taxes which they collect in the performance of their office as well as of the occasional gifts which they receive at weddings and the like. Those who are not satisfied with the decision of the kazi may appeal to the beg, or in the capitals, to the khan or his deputy.

671 693 692 [695]

The beg makes the decision of the higher court himself; in particularly important and difficult cases it becomes the concern of an assembly of the kazis, which makes the decision under the chairmanship of the highest kazi /211/ or kazi-kalyan. This decision may be corroborated by the beg or again it may be reversed. In all the more important cases, especially the criminal cases, the beg decides himself. He alone has the right to decree the heavier corporal punishments or the death sentence when the khan does not reserve the approval of the death sentences for himself.

all matters in dispute personally. In most cases, however, the begs 100
are completely illiterate persons, with no notion either of the shariat 696
or of reading and writing. In such cases the decision lies in the hands 693
of their divan-begis, who often simply transact legal business. I was
once told how these divan-begis actually manipulate justice by the
divan-begi of the Beg of Baysun, who had taken a great liking to me.
He told me the following quite candidly. If someone has a dispute
which he wants straightened out by the beg, he comes to the divan-begi,
explains the affair to him, and meanwhile gives gifts to him as well as
for the beg, corresponding to the importance of the case. The gifts may
be fruit, silken stuffs, khalats or even a horse and trappings. The divan-
begi informs the defendant of the complaint received, and the latter
must likewise appear with corresponding gifts in order to explain the
affair from his point of view. After the divan-begi has heard the argu-
ments on both sides, and received the gifts both for himself and the beg,
he reports to the beg about it, expressing at the same time his humble
opinion, depending upon the circumstances, that the plaintiff or the
defendant should be considered in the right, for the other brought in-
ferior gifts, thereby disclosing his evil intentions. There, as a rule, the
matter ends. It is obvious that under such circumstances a poor man
has no chance of coming into his own rights, and must be satisfied with
every injustice he suffers from the part of the richer man.

In the capitals, goverened by the khan or emir himself, the ruler 692
makes the ultimate judgments in person, and every subject has the
right to turn directly to the khan, that is to say, of course, if he is
admitted by the courtiers.

The punishments decreed for the criminals in Central Asian khan- 681
ates before the Russian domination, and to some extent in the independ-
ent states to the present day, were distinguished for their severity and
fearsomeness. For less serious transgressions the bastonnade, arrest, pris-
on and mutilation were decreed, and for more serious crime the death
penalty was required, which was carried out in the various states in six
different ways.

The bastonnade is practised by an usher of the court placing him-
self behind the one to be punished, putting the prisoner's arms over his
shoulders and holding him by both hands, while a second man works
over the prisoner's stripped back with a cudgel about a meter and a
half long and as thick as a man's arm. /213/ Whiplashes too are
often used instead of the cudgel. These are administered with the ordi-
nary riding whips or nagaikas, and the prisoner receives half the lashes

681 wagon, and then by running the two wagons together the condemned was run through the body with full force. Finally the stake with the impaled criminal was planted in the ground.

693 692 Of the earlier institutions of justice, the Russians have kept only the office of the kazi in their Central Asian possessions and even this has undergone certain modifications. They were induced to do this by the fact that it would have been impossible to submit the native Moslems altogether to the regular Russian jurisdiction without infringing profoundly upon their religious views. For these people were accustomed to see all their private disputes and their family affairs adjusted on the basis of the shariat and the Russian judges naturally could not be expected to have a knowledge of this. /218/ The Russian regime, however, renounced the power to nominate the kazis, who earlier had been appointed by the representatives of the state power, and left the choice to the common people. The Russian administration requires only that those chosen as kazis must all be persons over twenty-five years of age, of good reputation and never convicted. The special certificate of qualification which had formerly been required is no longer asked of the kazis. The kazis, like the aksakals are still generally elected for a definite period of years. The office of kazi-kalyan or chief justice has been abolished and all the kazis have the same rank. Each is assigned a special district, within which only the duly qualified kazi has the right to exercise judicial and notary functions. In the town of Tashkent, the number of kazis has been established at four, corresponding to the four old town quarters. The establishment of the kazi's salary or other income from his appointment, in the form of fees or taxes, has likewise been left by the regime to the common people. The kazis decide now as they did before all the disputes of the natives where the sum involved does not exceed 200 marks, and can also decide minor misdemeanors; thus, as judges, their sphere of action is similar to that of a Russian justice of the peace. More important disputes are settled by an assembly of all the kazis in a district. Criminal cases are judged by the regular Russian common law, just as are all disputes between Russians and natives. Moreover, it is left to the discretion of the natives to turn in all their affairs to the Russian jurisdiction, if they prefer.

681 Capital punishment has been abolished in Russia since the rule of the Empress Elizabeth, and all, even the most serious criminals, excepting only those guilty of high treason, are sentenced to deportation to Siberia (most recently also to the island of Sakhalin) and to forced labor. This law holds also for the Central Asian possessions of